

ROBERT STARBUCK NEWSOM, aka ROBBY
STARBUCK,

Plaintiff,

v.

SCOTT GOLDEN, in his official capacity as
Chairman of the Tennessee Republican Party;
the TENNESSEE REPUBLICAN PARTY;
MARK GOINS, in his official capacity as
Coordinator of Elections – Office of the
Tennessee Secretary of State; and TRE
HARGETT, in his official capacity as
Tennessee Secretary of State,

Defendants.

Morgan Ortagus (“Ortagus”), by and through her counsel, Dickinson Wright PLLC, respectfully moves this Court for leave to file the attached *amicus curiae* brief in support of Plaintiff Robert Starbuck Newsom’s Motion for Temporary Restraining Order or in the Alternative a Preliminary Injunction.

Ortagus is an individual who desires to run for Congress to represent Tennessee's new Fifth Congressional District in the United States House of Representatives. (*See* Verified Compl. ¶ 2, ECF No. 1.) Ortagus was a President Trump Administration official who was endorsed by

President Trump. *Id.* However, like Plaintiff Robert Starbuck Newsom, aka Robby Starbuck (“Starbuck”), the Tennessee Republican Party (“TRP”) unconstitutionally removed Ortagus from the primary ballot. *Id.*; (ECF No. 1-11.) Ortagus now seeks leave of this court to file her Brief of *Amicus Curiae*, attached to this Motion as **Exhibit 2**.

District courts have broad discretion to grant participation in a case by an *amicus curiae*. *Newcomb v. Allergy & ENT Assocs. of Middle Tennessee, P.C.*, 2013 WL 3976627, at *1 (M.D. Tenn. Aug. 2, 2013) (citing *United States v. State of Michigan*, 940 F.2d 143, 165 (6th Cir. 1991)). *Amicus* briefs are generally appropriate in three situations:

when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case (though not enough affected to entitle the amicus to intervene and become a party in the present case), or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.

Id. (quoting *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997)).

Here, the first two requirements are met. Ortagus is not a party in the present case, and she is not represented at all in this action. Further, Ortagus has an interest in this case because the Court’s ultimate decision could also impact her ability to run for Congress. Indeed, Ortagus sits in a similar position as Plaintiff Starbuck. The TRP directed the State of Tennessee to remove both Starbuck and Ortagus in the same April 21, 2022, letter. (ECF No. 26-1 at 11.)

Ortagus desires to assist this Court with deciding an important legal issue that the Court has asked Starbuck to address, *i.e.*, whether the actions of TRP constitute state action. Ortagus’s proposed Brief of *Amicus Curiae* addresses the question of state action. It also analyzes whether the TRP’s actions violate the Qualifications Clause of the United States Constitution, U.S. Const. art. 1, § 2; U.S. Const. Art. 1 § 5.

Based on the foregoing, *amicus curiae* Ortagus respectfully requests that this Court issue an order granting her leave to file her Brief of *Amicus Curiae*, which is attached to this Motion as **Exhibit 2**.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on this 9th day of May, 2022. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties listed below. Parties may access this filing through the Court's electronic filing system:

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